

Assembly Bill No. 472

Passed the Assembly September 12, 2001

Chief Clerk of the Assembly

Passed the Senate September 6, 2001

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Sections 568.2 and 568.3 to the Code of Civil Procedure, and to amend Sections 17980.6 and 17980.7 of, and to add Chapter 6.1 (commencing with Section 50651) to Part 2 of Division 31 of, the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 472, Cedillo. Real property: substandard conditions.

(1) Existing law provides for abatement of substandard conditions in buildings, and authorizes a court to appoint a receiver in specified cases involving real property.

This bill would provide procedures for a receiver of real property containing rental housing to obtain a court order to assist in the abatement of substandard conditions. The bill would authorize specified persons to file a motion in a receivership action for the purpose of seeking further instructions to the receiver. The bill would prescribe procedures whereby the owner of property or designated agent would be required to pay relocation benefits to tenants who are displaced or subject to displacement by local enforcement activities.

(2) The State Housing Law authorizes a city, county, or city and county enforcement agency to issue an order or notice to repair a building to the owner if the building is maintained in a manner that violates any provisions of this law, the building standards published in the State Building Standards Code, or any other rule or regulation promulgated pursuant to the law, and the violations are so extensive and of a nature that the health and safety of the residents or the public is substantially endangered.

This bill would extend the applicability of these provisions to the violation of any provision in a local ordinance that is similar to a provision in the State Housing Law, and would authorize the issuance of an order or notice to abate.

(3) Under the State Housing Law, if the owner does not correct the condition that caused the violation within a reasonable time after the issuance of a notice or order to repair by a court as part of a civil or criminal judgment against the owner, or in a specified stipulation to a judgment by the owner, a court may impose criminal penalties upon the owner, and is authorized to order an



owner not to claim any deduction with respect to state taxes for interest, taxes, expenses, depreciation, or amortization paid or incurred with respect to the cited structure, as well as the appointment of a receiver for a substandard building if certain conditions are met.

This bill would revise this provision to authorize the enforcement agency, if the owner does not correct the condition that caused the violation within a reasonable time after the issuance of a notice or order to repair by the enforcement agency, to seek the imposition of criminal penalties upon the owner, as well as an order to prohibit the owner from claiming any deduction for the above described state taxes. It would also authorize, if the owner does not correct the condition that caused the violation within a reasonable time after the issuance of a notice or order to repair by the enforcement agency, a court to order the appointment of a receiver.

(4) This bill would incorporate additional changes in Section 17980.7 of the Health and Safety Code proposed by AB 1467, to be operative if AB 1467 and this bill are both enacted and become effective on or before January 1, 2002, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 568.2 is added to the Code of Civil Procedure, to read:

568.2. (a) A receiver of real property containing rental housing shall notify the court of the existence of any order or notice to correct any substandard condition, as defined in Section 17920.3 of the Health and Safety Code, with which the receiver cannot comply within the time provided by the order or notice.

(b) The notice shall be filed within 30 days after the receiver's appointment or, if the substandard condition occurs subsequently, within 15 days of its occurrence.

(c) The notice shall inform the court of all of the following:

(1) The substandard conditions that exist.

(2) The threat or danger that the substandard conditions pose to any occupant of the property or the public.

(3) The approximate cost and time involved in abating the conditions. If more time is needed to approximate the cost, then the notice shall provide the date on which the approximate cost will



be filed with the court and that date shall be within 10 days of the filing.

(4) Whether the receivership estate is likely to contain sufficient funds to abate the conditions.

(d) If the receivership estate does not contain sufficient funds to abate the conditions, the receiver shall request further instructions or orders from the court.

(e) The court, upon receipt of a notice pursuant to subdivision (d), shall consider appropriate orders or instructions to enable the receiver to correct the substandard conditions or to terminate or limit the period of receivership.

SEC. 2. Section 568.3 is added to the Code of Civil Procedure, to read:

568.3. Any tenant of real property that is subject to receivership, a tenant association or organization, or any federal, state, or local enforcement agency, may file a motion in a receivership action for the purpose of seeking further instructions or orders from the court, if either of the following is true:

(a) Substandard conditions exist, as defined by Section 17920.3 of the Health and Safety Code.

(b) A dispute or controversy exists concerning the powers or duties of the receiver affecting a tenant or the public.

SEC. 3. Chapter 6.1 (commencing with Section 50651) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 6.1. TENANT RELOCATION ASSISTANCE

50651. Any tenant who is displaced or subject to displacement from a residential rental unit as a result of an order to vacate or an order requiring the vacation of a residential unit by a local enforcement agency as a result of a violation so extensive and of such a nature that the immediate health and safety of the residents is endangered, shall be entitled to receive relocation benefits from the owner as specified in this chapter. The local enforcement agency shall determine the eligibility of tenants for benefits pursuant to this chapter.

50653. (a) The relocation benefits required by this chapter shall be paid by the owner or designated agent to the tenant within 10 days after the date that the order to vacate is first mailed to the



owner and posted on the premises, or at least 20 days prior to the vacation date set forth in the order to vacate, whichever occurs later.

(b) If there are fewer than 10 days between the first posting and mailing of the order to vacate and the vacation date, the relocation benefits shall be paid by the owner or designated agent to the tenant within 24 hours after the notice is posted and mailed. The local enforcement agency shall attempt to provide telephonic or written notice to the owner to notify the owner that the benefits are payable immediately. Failure to provide the notice as specified in this section shall not relieve the owner of any obligations imposed by this chapter.

(c) If a tenant is entitled to relocation benefits pursuant to Section 50651, the local enforcement agency shall provide either telephonic or written notice to the tenant of his or her entitlement to the benefits. Written notice may be satisfied by posting a written notice on the premises stating that tenants may be entitled to relocation benefits.

50654. The relocation payment shall be made available by the owner or designated agent to the tenant in each residential unit and shall be a sum equal to two months of the established fair market rent for the area as determined by the Department of Housing and Urban Development pursuant to Section 1437f of Title 42 of the United States Code. In addition, the relocation payment shall include an amount, as determined by the local enforcement agency, sufficient for utility service deposits. The relocation benefits shall be paid by the owner or designated agent in addition to the return, as required by law, of any security deposits held by the owner. The relocation benefits shall be payable on a per residential unit basis.

50655. (a) Any owner or designated agent who does not make timely payment as specified in Section 50653 shall be liable to the tenant for an amount equal to one and one-half times the relocation benefits payable pursuant to Section 50654.

(b) Subdivision (a) shall not apply when relocation benefits are payable fewer than 10 days after the date the order to vacate is first mailed and posted on the premises, if the owner or designated agent makes the payment no later than 10 days after the order is first mailed and posted.



50656. (a) No relocation benefits pursuant to this chapter shall be payable to any tenant who has caused or substantially contributed to the condition giving rise to the order to vacate, as determined by the local enforcement agency, nor shall any relocation benefits be payable to a tenant if any guest or invitee of the tenant has caused or substantially contributed to the condition giving rise to the order to vacate, as determined by the local enforcement agency. The local enforcement agency shall make the determination whether a tenant, tenant's guest, or invitee caused or substantially contributed to the condition, giving rise to the order to vacate at the same time that the order to vacate the tenants is made.

(b) An owner or designated agent shall not be liable for relocation benefits if the local enforcement agency determines that the unit or structure became unsafe or hazardous as the result of a fire, flood, earthquake, or other event beyond the control of the owner or the designated agent and the owner or designated agent did not cause or contribute to the condition.

(c) In the situations described in subdivisions (a) and (b), the tenants of units within a multiunit structure who did not cause or substantially contribute to the uninhabitable condition shall be eligible for relocation benefits from the local enforcement agency that elects at its discretion to pay relocation payments in accordance with Section 50654 to those tenants.

(d) An owner or designated agent shall not be liable to make any payment as prescribed by this section if the local enforcement agency does not provide for an appeals process for the order to pay relocation benefits.

50657. (a) If the owner or designated agent fails, neglects, or refuses to pay relocation payments to a displaced tenant or a tenant subject to displacement, except in the situations described in Section 50656, the local enforcement agency may advance relocation payments as specified in Section 50654. If the local enforcement agency, pursuant to locally adopted policies, offers to advance relocation payments in accordance with Section 50654, the local enforcement agency shall be entitled to recover from the owner any amount paid to a tenant pursuant to this section except payments made pursuant to subdivision (c) of Section 50656. The local enforcement agency shall also be entitled to recover from the owner or designated agent an additional amount equal to the sum



of one-half the amount so paid, but not to exceed ten thousand dollars (\$10,000), as a penalty for failure to make timely payment to the displaced tenant, and the local enforcement agency's actual costs, including direct and indirect costs, of administering the provision of benefits to the displaced tenant.

(b) Any amounts paid by the local enforcement agency, except pursuant to subdivision (c) of Section 50656, and any applicable penalties and actual costs may also be placed as a lien against the property by the local enforcement agency by recording the lien in the county recorder's office of the county in which the real property is located.

(c) Any local enforcement agency that elects, at its own option pursuant to subdivision (a), to advance relocation payments to displaced tenants when the owner or designated agent fails, neglects, or refuses to pay relocation payments to displaced tenants, shall prior to instituting any action to collect from the owner or designated agent relocation benefits paid pursuant to this section, or to impose a lien therefor, send to the owner or designated agent by first-class mail, postage prepaid, at the owner's address as shown on the last equalized assessment roll, an itemized accounting of all benefits paid by the local enforcement agency to the owner's tenants, and any penalties or costs the local enforcement agency is seeking to recover as authorized pursuant to subdivision (a). If the owner or designated agent contends that not all of the benefits are chargeable to the owner or designated agent because the recipients were not displaced tenants, no benefits were payable pursuant to Section 50656, or on other grounds, the owner or designated agent shall submit a written appeal to the director of the local enforcement agency within 20 days after receipt by the owner or designated agent of the itemized accounting. The director, or the director's designee, shall hold an administrative hearing for the purpose of determining the amount of benefits paid that are chargeable to the owner or designated agent, and any penalties or costs the local enforcement agency may recover pursuant to subdivision (a). The local enforcement agency shall provide an administrative appeal process for any appeal of a decision of the director or the director's designee. The final decision of the local appellate body shall be subject to Section 1094.5 of the Code of Civil Procedure. If the owner fails to obtain a more favorable decision than that set forth in the itemized



accounting, the owner or designated agent shall be liable to the local enforcement agency for the costs of the administrative hearing and appeal, not to exceed five thousand dollars (\$5,000). The failure to receive the itemized accounting shall not relieve the owner of any obligation to the city or county.

(d) Nothing in this chapter shall be construed to require the local enforcement agency to pay any relocation benefits to any tenant, or assume any obligation, requirement, or duty of the owner pursuant to this chapter.

50658. Notwithstanding subdivision (b) of Section 50653 and subdivision (a) of Section 50657, if there are fewer than 10 days between the first posting and mailing of the order to vacate and the vacation date, and if the local enforcement agency advances relocation benefits to any tenants, prior to the expiration of the 10-day period, the owner shall not be required to reimburse the local enforcement agency for a charge identified on the itemized accounting described in subdivision (c) of Section 50657 if the owner contests the charge within 30 days after the itemized accounting is mailed to the owner or designated agent pursuant to subdivision (c) of Section 50657. The owner or designated agent shall pay the charge that was the subject of the appeal pursuant to subdivision (c) of Section 50657 within 30 days after an adverse decision by the director of the local enforcement agency on the appeal is mailed to the owner.

50659. The remedies under this chapter are cumulative and in addition to any other remedies available under federal, state, or local law.

50659.1. Any order by a local agency that requires a tenant's displacement and is issued to an owner, designated agent, or tenant, shall be accompanied by a summary of the provisions of this chapter. Failure to provide a summary shall not relieve any person of the obligations imposed by this chapter.

50659.2. While it is the intent of the Legislature in enacting this chapter to provide an expedient means by which to provide relocation funds to tenants, nothing in this chapter shall be construed to limit the rights available to owners, designated agents, or tenants under any other provision of law. Furthermore, nothing in this chapter shall be construed to deprive an owner of procedural due process rights guaranteed by law, including, but not limited to, a right to file a judicial action against a local



enforcement agency that has failed to proceed in a manner required by law.

50659.3. When seeking reimbursement under an optional local program intended to advance relocation payments to displaced tenants when the owner fails, neglects, or refuses to pay relocation payments to displaced tenants pursuant to the provisions of this chapter, the local code enforcement agency shall first explore the potential of using funds from any available federally funded program that provides tenant relocation assistance in cases of local code enforcement activities.

SEC. 4. Section 17980.6 of the Health and Safety Code is amended to read:

17980.6. If any building is maintained in a manner that violates any provisions of this part, the building standards published in the State Building Standards Code relating to the provisions of this part, any other rule or regulation adopted pursuant to the provisions of this part, or any provision in a local ordinance that is similar to a provision in this part, and the violations are so extensive and of such a nature that the health and safety of residents or the public is substantially endangered, the enforcement agency may issue an order or notice to repair or abate pursuant to this part. Any order or notice pursuant to this subdivision shall be provided either by both posting a copy of the order or notice in a conspicuous place on the property and by first-class mail to each affected residential unit, or by posting a copy of the order or notice in a conspicuous place on the property and in a prominent place on each affected residential unit. The order or notice shall include, but is not limited to, all of the following:

- (a) The name, address, and telephone number of the agency that issued the notice or order.
- (b) The date, time, and location of any public hearing or proceeding concerning the order or notice.
- (c) Information that the lessor cannot retaliate against a lessee pursuant to Section 1942.5 of the Civil Code.

SEC. 5. Section 17980.7 of the Health and Safety Code is amended to read:

17980.7. If the owner fails to comply within a reasonable time with the terms of the order or notice issued pursuant to Section 17980.6, the following provisions shall apply:



(a) The enforcement agency may seek and the court may order imposition of the penalties provided for under Chapter 6 (commencing with Section 17995).

(b) (1) The enforcement agency may seek and the court may order the owner to not claim any deduction with respect to state taxes for interest, taxes, expenses, depreciation, or amortization paid or incurred with respect to the cited structure, in the taxable year of the initial order or notice, in lieu of the enforcement agency processing a violation in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code.

(2) If the owner fails to comply with the terms of the order or notice to correct the condition that caused the violation pursuant to Section 17980.6, the court may order the owner to not claim these tax benefits for the following year.

(c) The enforcement agency, tenant, or tenant association or organization may seek and the court may order, the appointment of a receiver for the substandard building pursuant to this subdivision. In its petition to the court, the enforcement agency, tenant, or tenant association or organization shall include proof that notice of the petition was served not less than three days prior to filing the petition, pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure, to all persons with a recorded interest in the real property upon which the substandard building exists.

(1) In appointing a receiver, the court shall consider whether the owner has been afforded a reasonable opportunity to correct the conditions cited in the notice of violation.

(2) The court shall not appoint any person as a receiver unless the person has demonstrated to the court his or her capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the building.

(3) If a receiver is appointed, the owner and his or her agent of the substandard building shall be enjoined from collecting rents from the tenants, interfering with the receiver in the operation of the substandard building, and encumbering or transferring the substandard building or real property upon which the building is situated.

(4) Any receiver appointed pursuant to this section shall have all of the following powers and duties in the order of priority listed in this paragraph, unless the court otherwise permits:



(A) To take full and complete control of the substandard property.

(B) To manage the substandard building and pay expenses of the operation of the substandard building and real property upon which the building is located, including taxes, insurance, utilities, general maintenance, and debt secured by an interest in the real property.

(C) To secure a cost estimate and construction plan from a licensed contractor for the repairs necessary to correct the conditions cited in the notice of violation.

(D) To enter into contracts and employ a licensed contractor as necessary to correct the conditions cited in the notice of violation.

(E) To collect all rents and income from the substandard building.

(F) To use all rents and income from the substandard building to pay for the cost of rehabilitation and repairs determined by the court as necessary to correct the conditions cited in the notice of violation.

(G) To borrow funds to pay for repairs necessary to correct the conditions cited in the notice of violation and to borrow funds to pay for any relocation benefits authorized by paragraph (6) and secure that debt, with court approval, with a lien on the real property upon which the substandard building is located. The lien shall be recorded in the county recorder's office in the county within which the building is located.

(H) To exercise the powers granted to receivers under Section 568 of the Code of Civil Procedure.

(5) The receiver shall be entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages.

(6) If the conditions of the premises or the repair or rehabilitation thereof significantly affect the safe and sanitary use of the substandard building by any tenant, to the extent that the tenant cannot safely reside in his or her unit, then the receiver shall provide relocation benefits in accordance with subparagraph (A) of paragraph (3) of subdivision (d).

(7) The relocation compensation provided for in this section shall not preempt any local ordinance that provides for greater relocation assistance.



(8) In addition to any reporting required by the court, the receiver shall prepare monthly reports to the state or local enforcement agency which shall contain information on at least the following items:

- (A) The total amount of rent payments received.
- (B) Nature and amount of contracts negotiated relative to the operation or repair of the property.
- (C) Payments made toward the repair of the premises.
- (D) Progress of necessary repairs.
- (E) Other payments made relative to the operation of the building.
- (F) Amount of tenant relocation benefits paid.

(9) The receiver shall be discharged when the conditions cited in the notice of violation have been remedied in accordance with the court order or judgment and a complete accounting of all costs and repairs has been delivered to the court. Upon removal of the condition, the owner, the mortgagee, or any lienor of record may apply for the discharge of all moneys not used by the receiver for removal of the condition and all other costs authorized by this section.

(10) After discharging the receiver, the court may retain jurisdiction for a time period not to exceed 18 consecutive months, and require the owner and the enforcement agency responsible for enforcing Section 17980 to report to the court in accordance with a schedule determined by the court.

(11) The prevailing party in an action pursuant to this section shall be entitled to reasonable attorney's fees and court costs as may be fixed by the court.

(12) The county recorder may charge and collect fees for the recording of all notices and other documents required by this section pursuant to Article 5 (commencing with Section 27360) of Chapter 6 of Division 2 of Title 3 of the Government Code.

(13) Nothing in this section shall be construed to limit those rights available to tenants and owners under any other provision of the law.

(14) Nothing in this section shall be construed to deprive an owner of a substandard building of all procedural due process rights guaranteed by the California Constitution and the United States Constitution, including, but not limited to, receipt of notice of the violation claimed and an adequate and reasonable period of



time to comply with any orders which are issued by the enforcement agency or the court.

(d) If the court finds that a building is in a condition which substantially endangers the health and safety of residents pursuant to Section 17980.6, upon the entry of any order or judgment, the court shall do all of the following:

(1) Order the owner to pay all reasonable and actual costs of the enforcement agency including, but not limited to, inspection costs, investigation costs, enforcement costs, attorney fees or costs, and all costs of prosecution.

(2) Order that the local enforcement agency shall provide the tenant with notice of the court order or judgment.

(3) (A) Order that if the owner undertakes repairs or rehabilitation as a result of being cited for a notice under this chapter, and if the conditions of the premises or the repair or rehabilitation thereof significantly affect the safe and sanitary use of the premises by any lawful tenant, so that the tenant cannot safely reside in the premises, then the owner shall provide or pay relocation benefits to each lawful tenant. These benefits shall consist of actual reasonable moving and storage costs and relocation compensation. The actual moving and storage costs shall consist of all of the following:

(i) Transportation of the tenant's personal property to the new location. The new location shall be in close proximity to the substandard premises, except where relocation to a new location beyond a close proximity is determined by the court to be justified.

(ii) Packing, crating, unpacking, and uncrating the tenant's personal property.

(iii) Insurance of the tenant's property while in transit.

(iv) The reasonable replacement value of property lost, stolen, or damaged (not through the fault or negligence of the displaced person, his or her agent or employee) in the process of moving, where insurance covering the loss, theft, or damage is not reasonably available.

(v) The cost of disconnecting, dismantling, removing, reassembling, reconnecting, and reinstalling machinery, equipment, or other personal property of the tenant, including connection charges imposed by utility companies for starting utility service.



(B) (i) The relocation compensation shall be an amount equal to the differential between the contract rent and the fair market rental value determined by the federal Department of Housing and Urban Development for a unit of comparable size within the area for the period that the unit is being repaired, not to exceed 120 days.

(ii) If the court finds that a tenant has been substantially responsible for causing or substantially contributing to the substandard conditions, then the relocation benefits of this section shall not be paid to this tenant. Each other tenant on the premises who has been ordered to relocate due to the substandard conditions and who is not substantially responsible for causing or contributing to the conditions shall be paid these benefits and moving costs at the time that he or she actually relocates.

(4) Determine the date when the tenant is to relocate, and order the tenant to notify the enforcement agency and the owner of the address of the premises to which he or she has relocated within five days after the relocation.

(5) (A) Order that the owner shall offer the first right to occupancy of the premises to each tenant who received benefits pursuant to subparagraph (A) of paragraph (3), before letting the unit for rent to a third party. The owner's offer on the first right to occupancy to the tenant shall be in writing, and sent by first-class certified mail to the address given by the tenant at the time of relocation. If the owner has not been provided the tenant's address by the tenant as prescribed by this section, the owner shall not be required to provide notice under this section or offer the tenant the right to return to occupancy.

(B) The tenant shall notify the owner in writing that he or she will occupy the unit. The notice shall be sent by first-class certified mail no later than 10 days after the notice has been mailed by the owner.

(6) Order that failure to comply with any abatement order under this chapter shall be punishable by civil contempt, penalties under Chapter 6 (commencing with Section 17995), and any other penalties and fines as are available.

(e) The initiation of a proceeding or entry of a judgment pursuant to this section or Section 17980.6 shall be deemed to be a "proceeding" or "judgement" as provided by paragraph (4) or (5) of subdivision (a) of Section 1942.5 of the Civil Code.



(f) The term “owner,” for the purposes of this section, shall include the owner, including any public entity that owns residential real property, at the time of the initial notice or order and any successor in interest who had actual or constructive knowledge of the notice, order, or prosecution.

(g) These remedies shall be in addition to those provided by any other law.

(h) Nothing in this section or in Section 17980.6 shall impair the rights of an owner exercising his or her rights established pursuant to Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code.

SEC. 5.5. Section 17980.7 of the Health and Safety Code is amended to read:

17980.7. If the owner fails to comply within a reasonable time with the terms of the order or notice issued pursuant to Section 17980.6, the following provisions shall apply:

(a) The enforcement agency may seek and the court may order imposition of the penalties provided for under Chapter 6 (commencing with Section 17995).

(b) (1) The enforcement agency may seek and the court may order the owner to not claim any deduction with respect to state taxes for interest, taxes, expenses, depreciation, or amortization paid or incurred with respect to the cited structure, in the taxable year of the initial order or notice, in lieu of the enforcement agency processing a violation in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code.

(2) If the owner fails to comply with the terms of the order or notice to correct the condition that caused the violation pursuant to Section 17980.6, the court may order the owner to not claim these tax benefits for the following year.

(c) The enforcement agency, tenant, or tenant association or organization may seek and the court may order, the appointment of a receiver for the substandard building pursuant to this subdivision. In its petition to the court, the enforcement agency, tenant, or tenant association or organization shall include proof that notice of the petition was served not less than three days prior to filing the petition, pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure, to all persons with a recorded interest in the real property upon which the substandard building exists.



(1) In appointing a receiver, the court shall consider whether the owner has been afforded a reasonable opportunity to correct the conditions cited in the notice of violation.

(2) The court shall not appoint any person as a receiver unless the person has demonstrated to the court his or her capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the building. A court may appoint as a receiver a nonprofit organization or community development corporation. In addition to the duties and powers that may be granted pursuant to this section, the nonprofit organization or community development corporation may also apply for grants to assist in the rehabilitation of the building.

(3) If a receiver is appointed, the owner and his or her agent of the substandard building shall be enjoined from collecting rents from the tenants, interfering with the receiver in the operation of the substandard building, and encumbering or transferring the substandard building or real property upon which the building is situated.

(4) Any receiver appointed pursuant to this section shall have all of the following powers and duties in the order of priority listed in this paragraph, unless the court otherwise permits:

(A) To take full and complete control of the substandard property.

(B) To manage the substandard building and pay expenses of the operation of the substandard building and real property upon which the building is located, including taxes, insurance, utilities, general maintenance, and debt secured by an interest in the real property.

(C) To secure a cost estimate and construction plan from a licensed contractor for the repairs necessary to correct the conditions cited in the notice of violation.

(D) To enter into contracts and employ a licensed contractor as necessary to correct the conditions cited in the notice of violation.

(E) To collect all rents and income from the substandard building.

(F) To use all rents and income from the substandard building to pay for the cost of rehabilitation and repairs determined by the court as necessary to correct the conditions cited in the notice of violation.



(G) To borrow funds to pay for repairs necessary to correct the conditions cited in the notice of violation and to borrow funds to pay for any relocation benefits authorized by paragraph (6) and , with court approval, secure that debt and any moneys owed to the receiver for services performed pursuant to this section with a lien on the real property upon which the substandard building is located. The lien shall be recorded in the county recorder's office in the county within which the building is located.

(H) To exercise the powers granted to receivers under Section 568 of the Code of Civil Procedure.

(5) The receiver shall be entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages.

(6) If the conditions of the premises or the repair or rehabilitation thereof significantly affect the safe and sanitary use of the substandard building by any tenant, to the extent that the tenant cannot safely reside in his or her unit, then the receiver shall provide relocation benefits in accordance with subparagraph (A) of paragraph (3) of subdivision (d).

(7) The relocation compensation provided for in this section shall not preempt any local ordinance that provides for greater relocation assistance.

(8) In addition to any reporting required by the court, the receiver shall prepare monthly reports to the state or local enforcement agency which shall contain information on at least the following items:

(A) The total amount of rent payments received.

(B) Nature and amount of contracts negotiated relative to the operation or repair of the property.

(C) Payments made toward the repair of the premises.

(D) Progress of necessary repairs.

(E) Other payments made relative to the operation of the building.

(F) Amount of tenant relocation benefits paid.

(9) The receiver shall be discharged when the conditions cited in the notice of violation have been remedied in accordance with the court order or judgment and a complete accounting of all costs and repairs has been delivered to the court. Upon removal of the condition, the owner, the mortgagee, or any lienor of record may apply for the discharge of all moneys not used by the receiver for



removal of the condition and all other costs authorized by this section.

(10) After discharging the receiver, the court may retain jurisdiction for a time period not to exceed 18 consecutive months, and require the owner and the enforcement agency responsible for enforcing Section 17980 to report to the court in accordance with a schedule determined by the court.

(11) The prevailing party in an action pursuant to this section shall be entitled to reasonable attorney's fees and court costs as may be fixed by the court.

(12) The county recorder may charge and collect fees for the recording of all notices and other documents required by this section pursuant to Article 5 (commencing with Section 27360) of Chapter 6 of Division 2 of Title 3 of the Government Code.

(13) Nothing in this section shall be construed to limit those rights available to tenants and owners under any other provision of the law.

(14) Nothing in this section shall be construed to deprive an owner of a substandard building of all procedural due process rights guaranteed by the California Constitution and the United States Constitution, including, but not limited to, receipt of notice of the violation claimed and an adequate and reasonable period of time to comply with any orders which are issued by the enforcement agency or the court.

(d) If the court finds that a building is in a condition which substantially endangers the health and safety of residents pursuant to Section 17980.6, upon the entry of any order or judgment, the court shall do all of the following:

(1) Order the owner to pay all reasonable and actual costs of the enforcement agency including, but not limited to, inspection costs, investigation costs, enforcement costs, attorney fees or costs, and all costs of prosecution.

(2) Order that the local enforcement agency shall provide the tenant with notice of the court order or judgment.

(3) (A) Order that if the owner undertakes repairs or rehabilitation as a result of being cited for a notice under this chapter, and if the conditions of the premises or the repair or rehabilitation thereof significantly affect the safe and sanitary use of the premises by any lawful tenant, so that the tenant cannot safely reside in the premises, then the owner shall provide or pay



relocation benefits to each lawful tenant. These benefits shall consist of actual reasonable moving and storage costs and relocation compensation. The actual moving and storage costs shall consist of all of the following:

(i) Transportation of the tenant's personal property to the new location. The new location shall be in close proximity to the substandard premises, except where relocation to a new location beyond a close proximity is determined by the court to be justified.

(ii) Packing, crating, unpacking, and uncrating the tenant's personal property.

(iii) Insurance of the tenant's property while in transit.

(iv) The reasonable replacement value of property lost, stolen, or damaged (not through the fault or negligence of the displaced person, his or her agent or employee) in the process of moving, where insurance covering the loss, theft, or damage is not reasonably available.

(v) The cost of disconnecting, dismantling, removing, reassembling, reconnecting, and reinstalling machinery, equipment, or other personal property of the tenant, including connection charges imposed by utility companies for starting utility service.

(B) (i) The relocation compensation shall be an amount equal to the differential between the contract rent and the fair market rental value determined by the federal Department of Housing and Urban Development for a unit of comparable size within the area for the period that the unit is being repaired, not to exceed 120 days.

(ii) If the court finds that a tenant has been substantially responsible for causing or substantially contributing to the substandard conditions, then the relocation benefits of this section shall not be paid to this tenant. Each other tenant on the premises who has been ordered to relocate due to the substandard conditions and who is not substantially responsible for causing or contributing to the conditions shall be paid these benefits and moving costs at the time that he or she actually relocates.

(4) Determine the date when the tenant is to relocate, and order the tenant to notify the enforcement agency and the owner of the address of the premises to which he or she has relocated within five days after the relocation.



(5) (A) Order that the owner shall offer the first right to occupancy of the premises to each tenant who received benefits pursuant to subparagraph (A) of paragraph (3), before letting the unit for rent to a third party. The owner's offer on the first right to occupancy to the tenant shall be in writing, and sent by first-class certified mail to the address given by the tenant at the time of relocation. If the owner has not been provided the tenant's address by the tenant as prescribed by this section, the owner shall not be required to provide notice under this section or offer the tenant the right to return to occupancy.

(B) The tenant shall notify the owner in writing that he or she will occupy the unit. The notice shall be sent by first-class certified mail no later than 10 days after the notice has been mailed by the owner.

(6) Order that failure to comply with any abatement order under this chapter shall be punishable by civil contempt, penalties under Chapter 6 (commencing with Section 17995), and any other penalties and fines as are available.

(e) The initiation of a proceeding or entry of a judgment pursuant to this section or Section 17980.6 shall be deemed to be a "proceeding" or "judgment" as provided by paragraph (4) or (5) of subdivision (a) of Section 1942.5 of the Civil Code.

(f) The term "owner," for the purposes of this section, shall include the owner, including any public entity that owns residential real property, at the time of the initial notice or order and any successor in interest who had actual or constructive knowledge of the notice, order, or prosecution.

(g) These remedies shall be in addition to those provided by any other law.

(h) Nothing in this section or in Section 17980.6 shall impair the rights of an owner exercising his or her rights established pursuant to Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code.

SEC. 6. Section 5.5 of this bill incorporates amendments to Section 17980.7 of the Health and Safety Code proposed by both this bill and AB 1467. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 17980.7 of the Health and Safety Code, and (3) this bill is enacted after AB 1467, in which case Section 5 of this bill shall not become operative.



Approved _____, 2001

Governor

